

WHAT IS MENTAL COMPETENCY

Why does an attorney request a mental competency hearing?

An attorney requests a mental competency hearing when they believe the client does not understand the juvenile court process or the client is unable to assist the attorney with their defense. Mental competency has nothing to do with how smart a person is. Many juveniles are not competent because they are very young or they have not yet learned about the court system and their constitutional rights in school.

Why does it matter whether I am competent or not?

A child who is not competent cannot be adjudicated (found guilty) of committing a criminal offense. If a juvenile is unable to understand the juvenile court process or unable to help the attorney with his/her case the charge(s) must be dismissed (dropped).

What happens if the court orders a mental competency exam?

If the court orders mental competency examines, two doctors will be assigned by the court to meet with the juvenile and question the juvenile about the court process to determine whether the juvenile is competent. After meeting with the client the doctor will write a report to the court regarding the juvenile's competency. The doctor can find the juvenile is competent (understands the court process and can assist the attorney), incompetent/restorable (does not understand the court process but with a little tutoring the juvenile will be able to learn the juvenile court process) or not competent/ not restorable (does not understand the court process and will not be able to learn the information in six months).

How do I know when to meet with the doctors?

The parents of the juvenile will receive a letter informing them of the dates, times, locations and names of the doctors. The parents are responsible for taking the juvenile to the appointments unless the juvenile is in detention then the doctor will go to detention to see the child. If the parent is unable to make an appointment the doctor must be contacted immediately and the appointment rescheduled. If a juvenile misses an appointment the parents could be assessed the cost of the appointment, \$300.00.

What happens after I see the doctors?

After seeing the juvenile and before the next court hearing the doctors will prepare a report to the court informing the judge whether the doctor believes the juvenile is competent, incompetent/ restorable or incompetent/non-restorable. The judge will use this information to determine the juvenile's competency. If the judge finds the juvenile competent the court will set the matter for an adjudication (trial); if the child is found incompetent/ restorable, the child will be placed in restoration; and if the child is found incompetent/ non-restorable the charges will be dismissed.

What is restoration?

Restoration is a once a week, unless the court orders more frequent sessions, individual tutoring session on the juvenile justice process. Once a week for up to six months the juvenile meets with the restoration specialist at the child's home or school to receive 50 minutes of tutoring on the court system. Every sixty days the court will hold a review hearing to determine if the child is competent. Prior to the review hearing, the juvenile will be evaluated by a psychologist who will send a report to the court regarding whether the doctor believes the juvenile has become competent. Once the juvenile is competent the court will set the matter for an adjudication (trial) hearing and the case will move forward. If at the end of six months the juvenile is still incompetent and will not understand the juvenile court process even if he receives another two months of lessons, the charges are dismissed, (dropped).

If the juvenile is found competent, then what?

If the court finds that the juvenile is competent (able to understand the court process and assist his counsel) the judge will set an adjudication hearing (trial). Prior to the adjudication hearing the attorney will meet with the juvenile to discuss a possible plea offer and prepare for trial.